IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Revision No. 3476 of 2006

Date of decision: 16.10.2006

Sucha Singh and others

..... Petitioners.

Versus

Labh Singh and another

..... Respondents.

CORAM: HON'BLE MR. JUSTICE P.S. PATWALIA

Present:- Mr.Vikas Singh, Advocate
for the petitioners.

Mr. M.S. Rakkar,Advocate with
Mr. A.G.S. Dhillon, Advocate
for respondent Nos. 1 and 2.

P.S. PATWALIA, J. (ORAL)

The present revision petition has been filed against the order dated 23.05.2006 vide which an application filed under Order 6 Rule 17 of Code of Civil Procedure for amendment of the plaint was allowed by the trial Court.

Labh Singh and Mahinder Singh respondents in this revision petition and plaintiffs in the civil suit had filed a suit for permanent injunction restraining the petitioners, defendants in the civil suit from interfering in the supply of water to their land bearing khasra No. 65 from electric motor installed /runs in khasra No.56. In appeal an interim

injunction was granted by the appellate Court in favour of the plaintiff and defendants were restrained from interfering in the supply of water to the land of plaintiff from the tubewell allegedly installed in khasra No.56.

At a stage when issues had been framed and the evidence of the plaintiffs was yet to be commenced, the plaintiffs moved an application seeking amendment of the plaint alleging that after grant of interim injunction the electric motor had been shifted from khasra No.56 to khasra No.64 and a portion of Khall had also been demolished and therefore the plaintiffs wished to plead all these subsequent by amending the plaint.

The application was contested by petitioners-defendants. They had stated that it was the case of the defendants in the civil suit from the initial stage itself that there was no motor in khasra No.56 but rather it was located in khasra No.64. The petitioners therefore contended that application for amendment had been filed by concealing the true and material facts. It was further contended that the same had been filed at a belated stage when the trial had already commenced. Hence, dismissal of the application is prayed for.

The trial Court however allowed the same.

Learned counsel for the petitioners argued that the application could not have been allowed at a stage when the issues had already framed and trial had commenced. He further argued that in fact the plaintiffs wish to make the amendment only to fill up the lacuna in their plaint. On the other hand, learned counsel for the respondents, plaintiffs in the suit submits that the present land was originally owned by Ram Singh and Kishan Singh. Ram Singh had sold his share to the plaintiffs as also to defendant Nos. 1 and 2. The land is Chahi. It has always been irrigated from this tube-well.

He submits that the tube-well was earlier located in khasra No.56 but after the interim injunction, the same has been shifted to khasra No.64 by the defendants. He thus submits that these are subsequent events which are very necessary to be brought to the notice of the Court for proper adjudication of the controversy involved in the suit.

In view of the aforementioned facts, I find no error in the order of the trial Court granting amendment. I am also of the opinion that the subsequent events as pleaded by the plaintiffs are essential to be brought before the Court for a comprehensive decision of the controversy involved in the suit. Even otherwise since up to date no evidence has been led no prejudice would be caused to the petitioners if the amendment is allowed. I therefore find no error in the order of the trial court.

The present revision petition is therefore dismissed.

October 16 , 2006 **(P.S. PATWALIA)**
dinesh **JUDGE**